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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER LAZARO, DAVID R	
			ART UNIT	PAPER NUMBER
			2155	
DATE MAILED: 11/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/727,182	Applicant(s) MACHE ET AL.	
	Examiner David Lazaro	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment filed 09/12/05.
2. Claims 1-21 are pending in this office action.

Response to Amendment/Rejection Maintained

3. Applicant's arguments filed 9/12/05 have been fully considered but they are not persuasive. See 'Response to Arguments'. As such, the previous grounds of rejection, as set forth in the office action mailed 05/13/05, are respectfully maintained.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-18, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,740,230 by Vaudreuil (Vaudreuil) in view of U.S. Patent 5,958,005 by Thorne et al. (Thorne).
6. With respect to Claim 1, Vaudreuil teaches a system for transmitting messages over a multimedia network from a sending client to a target client, the messages comprising target client information (Col. 1 lines 52-58), the system comprising:

a plurality of message gateways (Col. 7 lines 52-65), each message gateway being configured to receive and transmit over at least one dedicated transfer medium (Col. 7 lines 54-59 and Col. 3 line 66 – Col. 4 line 20), and

a message broker (1) (Col. 7 line 65 – Col. 8 line 1; note the examiner is interpreting the 'remainder of the software system' on the hub to be the message broker) connected to the message gateways (Col. 7 line 65- Col. 8 line 1) and being provided with a client database (Col. 8 lines 46-51 and Col. 9 lines 61-65),

wherein a first message gateway receives a message from a sending client over a first transfer medium (Col. 10 lines 37-41 and Col. 12 lines 21-36) and transmits the message and/or an information extracted thereof to the message broker (1), the message broker (1) automatically selects an appropriate second transfer medium depending on the content of the client database (2) and the supplied message and/or an information extracted thereof (Col. 15 lines 13-20 and Col. 19 lines 49-56), and the message is sent to the target client by means of a second message gateway configured for a transmission over the second transfer medium selected by the message broker (1) (Col. 6 lines 46-65), and

wherein messages include meta information containing a plurality of different fields (Col. 24 lines 24-52 - Particularly the labeling feature, and Col. 26 line 31 - Col. 27 line 15 - Particularly the "subject matter field" and the "message content type" field),

wherein the message broker controls the message flow by inspecting the meta information of the messages (Col. 24 lines 24-52 and Col. 26 line 31 - Col. 27 line 15).

Vaudreuil does not explicitly disclose one of the fields being a secure read count and a maximum read count value limiting the maximum reads of the message. Thorne teaches meta information related to a message can include a secure read count and a maximum read count which limit the maximum reads of the message (Col. 8 lines 1-20 and Col. 11 lines 5-12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the system disclosed by Vaudreuil and modify it as indicated by Thorne such that messages include meta information containing a plurality of different fields, one of the fields being a secure read count and a maximum read count value limiting the maximum reads of the message. One would be motivated to have this as there is need for controlling the circulation and usage of messages (Col. 2 lines 45-56 of Thorne).

7. With respect to Claim 2, Vaudreuil in view of Thorne teaches all the limitations of Claim 1 and further teaches a common internal message format for the communication respectively between the message broker (1) and the message gateways (Col. 6 line 65 – Col. 7 line 9 and Col. 13 lines 2-15 and Col. 19 lines 36-48 of Vaudreuil)

8. With respect to Claim 3, Vaudreuil in view of Thorne teaches all the limitations of Claim 1 and further teaches the message gateways are distributed over the network (See Fig. 1 of Vaudreuil – note gateways are part of the hub functionality).

9. With respect to Claim 4, Vaudreuil in view of Thorne teaches all the limitations of Claim 1 and further teaches the transfer media comprise analog and digital transfer media (Col. 7 lines 49-60 of Vaudreuil).

10. With respect to Claim 5, Vaudreuil in view of Thorne teaches all the limitations of Claim 1 and further teaches at least one message processor (4) provided between the first and the second message gateway for further processing the content of the message to be transmitted (Col. 19 line 66 – Col. 20 line 8 of Vaudreuil).

11. With respect to Claim 6, Vaudreuil in view of Thorne teaches all the limitations of Claim 1 and further teaches the client database (2) comprises addresses of clients (Col. 21 lines 41-46), client preferences (Col. 20 lines 9-11) and/or characteristics of the transfer network to the corresponding target client (Col. 20 lines 11-12 of Vaudreuil).

12. With respect to Claim 7, Vaudreuil in view of Thorne teaches all the limitations of Claim 1 and further teaches the message broker (1) is designed to furthermore perform processing control (Col. 8 lines 22-65 of Vaudreuil) and/or security processing (Col. 28 lines 63-67 of Vaudreuil).

13. With respect to Claim 8, Vaudreuil in view of Thorne teaches all the limitations of Claim 1 and further teaches the message broker (1) is designed to furthermore perform accounting and/or billing (Col. 9 lines 61-65 of Vaudreuil).

14. With respect to Claim 9, Vaudreuil in view of Thorne teaches all the limitations of Claim 1 and further teaches a plurality of message brokers (1, 1') is provided (See Fig. 1 of Vaudreuil – note message brokers are a part of hub functionality).

15. With respect to Claim 10, Vaudreuil in view of Thorne teaches all the limitations of Claim 9 and further teaches at least one message broker (1') being connected with a client database (2') with reduced capacity (Col. 7 lines 61-65 and Col. 8 lines 65-67 of Vaudreuil).

16. With respect to Claim 11, Vaudreuil in view of Thorne teaches all the limitations of Claim 1 and further teaches the messages respectively contain a non-granted encrypted and a granted non-encrypted part (Col. 28 lines 63-67 of Vaudreuil).

17. With respect to Claim 12, Vaudreuil teaches a message broker unit for a distributed multimedia system, characterized in that it is designed to autonomously select an appropriate transfer medium out of a plurality of transfer media for message received from a sending client and to be transferred to a target client (Col. 4 lines 46-49 and Col. 19 lines 49-57), wherein the message broker (1) (Col. 6 lines 46-48) is connected to a client database (2) (Col. 8 lines 46-51 and Col. 9 lines 61-65) and the transfer medium selection is performed depending on target client information and the content of the client database (Col. 20 lines 9-12 and Col. 6 lines 55-59), and

wherein messages include meta information containing a plurality of different fields (Col. 24 lines 24-52 - Particularly the labeling feature, and Col. 26 line 31 - Col. 27 line 15 - Particularly the "subject matter field" and the "message content type" field),

wherein the message broker controls the message flow by inspecting the meta information of the messages (Col. 24 lines 24-52 and Col. 26 line 31 - Col. 27 line 15).

Vaudreuil does not explicitly disclose one of the fields being a secure read count and a maximum read count value limiting the maximum reads of the message. Thorne teaches meta information related to a message can include a secure read count and a maximum read count which limit the maximum reads of the message (Col. 8 lines 1-20 and Col. 11 lines 5-12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the message broker unit disclosed by Vaudreuil and modify it as indicated by Thorne such that messages include meta information containing a plurality of different fields, one of the fields being a secure read count and a maximum read count value limiting the maximum reads of the message. One would be motivated to have this as there is need for controlling the circulation and usage of messages (Col. 2 lines 45-56 of Thorne).

18. With respect to Claim 13, Vaudreuil in view of Thorne teaches all the limitations of Claim 12 and further teaches the transfer medium selection is performed depending on the target network (Col. 6 lines 55-59 of Vaudreuil), the message type (Col. 20 lines 9-12 of Vaudreuil) and/or client preference contained in the client database (Col. 19 lines 49-56 of Vaudreuil)

19. With respect to Claim 14, Vaudreuil in view of Thorne teaches all the limitations of Claim 12 and further teaches the messages respectively contain a non-granted encrypted and a granted non-encrypted part (Col. 28 lines 63-67 of Vaudreuil).

20. With respect to Claim 15, Vaudreuil teaches a method for sending messages over a multimedia network from a sending client to a target client, the message comprising target client information (Col. 1 lines 52-58), the method comprising the following steps:

transmitting the message from the sending client to a message broker (1) over a first transfer medium (Col. 6 lines 46-48), and

transmitting the message to the target client over a second transfer medium, wherein the second transfer medium can be identical to the first transfer medium (Col. 5 lines 60-66),

wherein the message broker (1) selects an appropriate second transfer medium out of a plurality of transfer media depending on the content of a client database (2) (Col. 19 lines 49-56) connected to the message broker (1) (Col. 8 lines 46-51 and Col. 9 lines 61-65) and the target client information (Col. 19 lines 49-56 and Col. 20 lines 9-12), and

wherein messages include meta information containing a plurality of different fields (Col. 24 lines 24-52 - Particularly the labeling feature, and Col. 26 line 31 - Col. 27 line 15 - Particularly the "subject matter field" and the "message content type" field),

wherein the message broker controls the message flow by inspecting the meta information of the messages (Col. 24 lines 24-52 and Col. 26 line 31 - Col. 27 line 15).

Vaudreuil does not explicitly disclose one of the fields being a secure read count and a maximum read count value limiting the maximum reads of the message. Thorne teaches meta information related to a message can include a secure read count and a maximum read count which limit the maximum reads of the message (Col. 8 lines 1-20 and Col. 11 lines 5-12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Vaudreuil and modify it as indicated by Thorne such that messages include meta information containing a plurality of different fields, one of the fields being a secure read count and a maximum read

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count value limiting the maximum reads of the message. One would be motivated to have this as there is need for controlling the circulation and usage of messages (Col. 2 lines 45-56 of Thorne).

21. With respect to Claim 16, Vaudreuil in view of Thorne teaches all the limitations of Claim 15 and further teaches the transmission of the message from the sending client to the target client is performed essentially in real-time (Col. 24 line 63 – Col. 25 line 3 of Vaudreuil).

22. With respect to Claim 17, Vaudreuil in view of Thorne teaches all the limitations of Claim 15 and further teaches a conversion from the first transfer medium to the second transfer medium is performed depending on the target network (Col. 6 lines 55-59 of Vaudreuil), the message type (Col. 20 lines 9-12 of Vaudreuil) and/or client preference contained in the client database (Col. 19 lines 49-56 of Vaudreuil).

23. With respect to Claim 18, Vaudreuil in view of Thorne teaches all the limitations of Claim 15 and further teaches before the transmission to the target client, the content of the message is further processed by digital signing, encryption, watermarking and/or translation (Col. 32 lines 57-64 and Col. 28 lines 63-67 of Vaudreuil).

24. With respect to Claim 20, Vaudreuil in view of Thorne teaches all the limitations of Claim 15 and further teaches the messages respectively contain a non-granted encrypted and a granted non-encrypted part (Col. 28 lines 63-67 of Vaudreuil).

25. With respect to Claim 21, Vaudreuil in view of Thorne teaches all the limitations of Claim 15 and further teaches that when loaded into a computer, it implements a

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method according to Claim 15 (Col. 7 lines 47-49 of Vaudreuil and Please refer to Claim 15 rejection).

26. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaudreuil in view of Thorne as applied to claim 15 above, and further in view of U.S. Patent 6,163,796 by Yokomizo (Yokomizo). Vaudreuil in view of Thorne teaches all the limitations of Claim 15 but does not explicitly disclose a lifetime is attributed to each message and transmitting the message only during that lifetime. Yokomizo teaches a message can have a lifetime attributed to it (Col. 6 lines 4-5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Vaudreuil in view of Thorne and modify it as indicated by Yokomizo such that a lifetime is attributed to each message and the message is only transmitted until the expiration of the lifetime. One would be motivated to have this as this provides better efficiency in the messaging system (Col. 2 lines 5-9 of Yokomizo).

Response to Arguments

27. Applicant's arguments filed 09/12/05 have been fully considered but they are not persuasive.

28. Applicants argue (Page 9 of remarks) - *"It was stated that Vaudreuil does not disclose one of the fields being a read count and a maximum read count value limiting the maximum reads of the message. Office Action, pages 3-4. It was stated that Thorne discloses this limitation. Yet Thorne deals with a single medium, i.e., e-mail. It is not*

foreseeable to adapt the e-mail message to different target media, because although it is relatively easy to incorporate a read count limitation in a single medium such as e-mail, it is much more complicated to maintain and forward a read count value field when converting from a first medium to a second medium. Therefore, Thorne fails to teach a system containing multimedia transmission of messages, as claimed."

a. The examiner first notes that *In re Keller, Terry, and Davies*, 208 USPQ 871 (CCPA 1981) states, "Test of obviousness is not whether features of secondary reference may be bodily incorporated into primary reference's structure, nor whether claimed invention is expressly suggested in any one or all of references; rather, test is what combined teachings of references would have suggested to those of ordinary skill in art." *In re Keller, Terry, and Davies*, 208 USPQ 871 (CCPA 1981). It would seem that applicants are not considering what the combined teachings of references would have suggested to those of ordinary skill in the art. Instead, applicants' arguments are focused on the teachings of Thorne. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The rejection presented does not attempt to show that Thorne teaches "a system containing multimedia transmission of messages" as applicants seem to be implying. The rejection states that Thorne teaches meta information related to a message can include a secure read count and a maximum read reads of the message (Col. 8 lines 1-20 and Col. 11 lines 5-12). Thorne further provides motivation to show that such teachings render the limitations not disclosed by Vaudreuil to be obvious.

b. Applicants attack Thorne individually also by stating that "Thorne deals with a single medium." In regards to subject matter of "messages", the claim language only generally specifies a "*system for transmitting messages over a multimedia network...the messages comprising target client information*" (from claim 1). Taking the broadest reasonable interpretation (MPEP 2111), the examiner considers "e-mail" to be within the scope of being a "message". Furthermore, the claims do not specify a plurality of different types of messages or that certain types are excluded from the system.

c. Applicants additionally assert that "*it is much more complicated to maintain and forward a read count value field when converting from a first medium to a second medium*", yet do not provide any factual evidence in support of such a statement. Furthermore, it is not clear what relevance such an assertion has in terms of distinguishing the claimed subject matter from the prior art. The claimed subject matter does not include any conversion step from a first medium to a second medium in relation to the actual message. The claims state "the message broker (1) automatically selects an appropriate second transfer medium...and the message is sent to the target client by means of a second message gateway configured for transmission over the second transfer medium selected by the message broker" (from claim 1). The examiner interprets this as the message may be first transferred on one transmission medium to the message broker and then sent on a different transmission medium to the target client. For example, a first transmission medium may be a wired transmission

while the second may be a wireless transmission. The examiner notes though, that based on the claim language, the two transmission mediums are not necessarily different.

d. For these reasons, applicants' arguments are not persuasive.

29. Applicant argues (page 9 of remarks) - *"In addition, in Thorne the read count itself is carried out on the target client side, and the sending client is defining the maximum read count value. See Thorne, Figs. 5A and 5B and corresponding description. In other words, Thorne teaches incorporating the read count function on the terminal side, versus incorporating it within the message broker, as claimed. In sum, Thorne fails to teach that it is the message broker and not one of the sending and receiving clients who is carrying out the read count functionality."*

e. Again, applicants are attacking Thorne individually and do not consider the combination of Vaudreuil and Thorne as a whole. The rejection presented does attempt to show that Thorne teaches a message broker carrying out the read count functionality, as applicants seem to be implying. The rejection states that Thorne teaches meta information related to a message can include a secure read count and a maximum read reads of the message (Col. 8 lines 1-20 and Col. 11 lines 5-12). Thorne further provides motivation to show that such teachings render the limitations not disclosed by Vaudreuil to be obvious. Applicants' arguments are not persuasive.

30. Applicant argues (page 9 of remarks) - *"Further, the read count functionality according to Thorne is limited to a single path transmission. Therefore, Thorne fails to*

teach a mutlipath transmission (i.e., a receiving client again sending the message to another client), as claimed."

31. Again, applicants are attacking Thorne individually and do not consider the combination of Vaudreuil and Thorne as a whole. Furthermore, the examiner does not see any claimed subject matter that would correspond to the supposed "multipath transmission". Applicants' arguments are not persuasive.

Conclusion

32. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Lazaro
November 02, 2005



SALEH NAJJAR
SUPERVISORY PATENT EXAMINER